



Nov. 12, 2013

The Honorable Tom McMillin  
and Members of the House Oversight Committee

Dear representatives,

The Michigan Coalition for Open Government (MiCOG) strongly supports House Bills 4001 and 4314 being considered today by the House Oversight Committee.

MiCOG is a non-profit, tax-exempt organization open to citizens, journalists and associations concerned with open government and freedom of information. Our members live in all parts of the state and actively support access to government records as a way to keep democracy strong.

I've attached an opinion article written by former Michigan Associated Press Chief of Bureau Charles Hill outlining MiCOG's reasons for supporting these two bills – as well as House Bill 4302 and Senate Bill 202 – and urging the committee to act on them. The article has run this week in The Detroit News, MLive, The Mining Journal, The Macomb Daily, The Daily Tribune in Royal Oak, The News-Herald and Heritage publications. The Detroit Free Press and Bridge Magazine plan to run it as well.

We hope you will consider these arguments as you consider these two FOIA bills today. The proposed legislation would make it more likely that citizens will be able to get vital public information in a timely and affordable manner, and for that reason should become law.

Sincerely,

The Michigan Coalition for Open Government

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## FOIA reform would make transparency cheaper

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[detroitnews.com](http://detroitnews.com)

By Charles Hill



Most government officials and politicians will agree in public that the work of government should be transparent so citizens can judge whether money is being spent wisely and decisions are being made properly.

But the reality is that getting your hands on specific government information isn't always easy, even when the law says it should be available.

A bill proposed in the Michigan Legislature, House Bill 4001, would amend the Michigan Freedom of Information Act (FOIA) to make that information more accessible by limiting fees and discouraging delays.

The Michigan Coalition for Open Government (MiCOG) strongly endorses the legislation and believes that the bill would help promote transparency and accountability in state and local government. It applauds Rep. Mike Shirkey,

R-Clark Lake, for introducing the bill.

Although Michigan's FOIA law rightfully requires much information to be available, the law is being undermined by officials who block access to public information by wrongly denying requests, unnecessarily delaying the release of information or charging too much for searches or copies.

Delays that hold up the release of information until after an election is held or an important public policy is set can lead to bad governance and decision-making. And officials who want to keep information secret or complain it takes too much staff time to fill a public records request know that charging high fees to track down or copy public records is often an effective way to stop a request dead in its tracks.

Here are some ways House Bill 4001, if passed by the House and Senate and signed by Gov. Rick Snyder, would help:

- If you want to look at public records but aren't asking for copies, a public body would have to let you see the records and couldn't charge you copying fees.
- If you need a public body to make copies to take with you, it couldn't charge you more than 10 cents per page.
- If your request isn't denied but you don't receive the information by the law's deadline (generally five days after the public body received your request or, in some cases, after a short extension), the fee would be cut by 20 percent of the original amount for each day after the deadline the information is withheld. After five days, the fee would be zero. (One unhelpful part: In cases requiring a deposit, the reduction clock wouldn't start until the deposit was paid. During an appeal, the maximum possible deposit would be \$500.)
- Punitive damages would be higher if a circuit court rules that a public body has arbitrarily and capriciously

# The Detroit News

violated the Freedom of Information Act by refusing to release a public record or delaying its release. The damages would increase to \$5,000 from the present \$500. (That fee was set more than four decades ago.)

- If you think fees are too high, you could appeal to the head of the public body or file an action in circuit court.
- If you go to circuit court to fight a denial of information or a fee amount, the public body couldn't give new or additional reasons it hadn't given initially for the fee or the denial.
- If you appeal a denial of information and you lose in court, the court no longer could require you to pay the public body's attorney fees and costs. But you still could recover your attorney fees and costs if you won.

Legislation also has been proposed to create an Open Government Commission to hear FOIA appeals (HB4314) and to expand FOIA coverage for the legislative branch so it is more in line with the broader coverage for the executive branch (HB4302 and SB202).

Those bills also are supported by MiCOG, a nonprofit, tax-exempt organization open to citizens, journalists and associations concerned with open government and freedom of information.

Rep. Tom McMillin, R-Rochester Hills, sponsored HB4314, while HB4302 was introduced by Rep. Brandon Dillon, D-Grand Rapids, and SB202 was introduced by Sen. Steven Bieda, D-Warren, showing that support for openness is bipartisan.

The need to pass these FOIA bills is growing every day. Many news organizations and citizens simply cannot afford to pay the high fees public bodies increasingly require to get at the very information citizens and the media need to hold government accountable.

Citizens can't truly be a part of that analysis if they let governments do their own grading and assessments. Are the police and judges keeping your community safe while still treating the accused fairly? Are schools and teachers making the most of their opportunities to educate your children?

You can't make those assessments without knowing what's in the public record. The proposed legislation would make it more likely that you will get that vital information. We encourage the Oversight Committee to move these bills on to the floor and for both houses to approve them this session.

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*Charles Hill is a member of the board of directors of the Michigan Coalition for Open Government and a former Michigan bureau chief for The Associated Press. To join or find out more about MiCOG, go to <http://www.miopengov.org> or follow MiCOG on Facebook <https://www.facebook.com/MIOpenGov> or Twitter @miopengov.*

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